



United States Department of the Interior

U.S. Fish and Wildlife Service, Pacific Region
Migratory Birds and Habitat Program
911 NE 11th Avenue
Portland, Oregon 97232



FINDING OF NO SIGNIFICANT IMPACT

Decision to Issue an Eagle Take Permit to Puget Sound Energy for the Wild Horse Wind Project
U.S. Fish and Wildlife Service
Portland, OR
October 2019

Pursuant to the National Environmental Policy Act (NEPA) (42 U.S.C 4321 et seq.), the United States Fish and Wildlife Service (hereafter, Service) prepared an Environmental Assessment (EA), tiered to the Services Programmatic Environmental Impact Statement for the Eagle Rule Revision issued in December 2016. This EA was written because the Service needs to make a decision on an eagle incidental take permit application (pursuant to 50 CFR 22.26), submitted by Puget Sound Energy (PSE), for the take (i.e. incidental killing) of golden eagles (*Aquila chrysaetos*) and bald eagles (*Haliaeetus leucocephalus*) at the Wild Horse Wind Facility (Wild Horse or Project) in eastern Kittitas County, Washington. The decision by the Service to issue a permit is a federal action.

Should the Service decide to issue a permit under one of the Action Alternatives, we need to ensure that our decision to issue the permit meets the Service's preservation standard for eagles; is otherwise consistent with the Eagle Act (16 United States Code [U.S.C.] §§ 668-668d) and its implementing regulations (50 CFR 22.26); is consistent with general permit issuing criteria (50 CFR Part 13); and is consistent with our legal authorities, ensuring the incidental take permit, if issued, and implementation of the permit conditions would further long-term conservation of bald and golden eagles.

The EA considered three alternatives:

- Alternative 1, deny the permit (the No Action Alternative);
- Alternative 2, issue a 5-year eagle take permit to the applicant based on their permit application and negotiated conditions (our Preferred Alternative); and
- Alternative 3, issue a 30-year eagle take permit with additional mitigation requirements.

Other alternatives were considered but rejected as not meeting our purpose and need as described in section 3.3.4 of the EA.

BACKGROUND

Wild Horse Wind Project submitted an application for a 5-year Eagle Permit in 2015, requesting authorization of non-purposeful or "incidental" take of bald and golden eagles under the Eagle Act for operational activities associated with the Project. The original Wild Horse Wind Project was developed and constructed by Zilkha Renewable Energy (Zilkha) and then purchased by PSE. Construction of the original project, consisting of 127 turbines, began mid-October 2005 and was completed in December

2006 when it became operational. PSE assumed management when the facility commenced commercial operations in 2006. In early 2009, Washington's Energy Facility Site Evaluation Council amended the Site Certification Agreement (SCA) authorizing PSE to expand Wild Horse by an additional 22 turbines. PSE began construction in May of 2009 and the expansion began operation on November 9, 2009. This Project is described in greater detail in the Eagle Conservation Plan (Appendix A in the EA), which is the foundation of the permit application.

DESCRIPTION OF PROJECT PRACTICES UNIQUE TO THE PREFERRED ALTERNATIVE

Compensatory Mitigation Measures

PSE will be required to provide compensatory mitigation to offset predicted take of golden eagles at a ratio of 1.2:1. This offset will be achieved by retrofitting high-risk electrical distribution poles. The number of poles that would be retrofitted or rebuilt is derived using our Resource Equivalency Analysis (REA), which is based on the predicted number of annual eagle fatalities (Appendix C in the EA) and literature accepted values for how many eagles are killed at high-risk power poles. When running the REA, we assumed that a power pole retrofit is effective at preventing eagle deaths for 30 years and the retrofits were completed during year 1.

PSE's compensatory mitigation commitment under the Preferred Alternative is summarized in Table 1.

Table 1. Compensatory Mitigation Commitment for Preferred Alternative		
	Bald Eagle	Golden Eagle
Predicted Take for 5-year Permit Term (Annual)	3 (0.53 per year)	9 (1.72 per year)
Take that needs to be offset (Annual rate)	0	2 (0.25 per year)
Number of poles to be retrofitted (based on longevity of pole retrofit effectiveness of 10 years / 30 years)	N/A	74 poles / 33 poles
Compensatory Mitigation is only required for Golden Eagle take estimated at the 22 turbines resulting from the 2009 expansion at Wild Horse.		

PSE will retrofit high risk poles owned by Kittitas County PUD to meet their compensatory mitigation requirement. Priority will be given to identifying high-risk poles within the species-specific LAP. As described in the EA, high risk poles will be identified by selecting circuits for retrofitting based on the presence of golden eagle habitat and by selecting individual poles based on a poles risk index (RRI) as described in Dwyer et al. (2014), which considers the equipment on, and configuration of the poles in question. To count as compensatory mitigation, the power poles to be retrofitted must be in addition to whatever the power company already had plans to do; that is, poles retrofitted under this compensatory mitigation package must be an entirely new set of poles, not already scheduled for retrofitting or replacement by the power company in the foreseeable future. Additionally, the Service will require the permittee to prepare and submit a cultural resource survey report for the power poles they select for

retrofitting. The Service will evaluate this information and consult with the Confederated Tribes of the Colville Reservation and the State Historic Preservation Officer at that time as appropriate.

As part of its annual report, PSE will provide an accounting of the poles retrofitted in the previous year, including photos to ensure retrofits were completed correctly. All compensatory mitigation outlined in Table 1 will be implemented, as described above by January 31, 2021.

Fatality Monitoring

PSE will be required to conduct an operational fatality monitoring program that achieves a minimum site-wide g-value (probability of detection) of 0.35 during years 1, 2, and 3 after the Eagle Permit is issued, as described in the EA. Limited fatality monitoring would occur during years 4 and 5; however, Project staff will be trained in identifying and reporting discoveries of eagle remains during routine maintenance activities and, thus, incidental observations of fatalities would be reported. Additional operational fatality monitoring may be warranted in year 4, if triggered by Adaptive Management (as described in the EA).

Carcass persistence trials and searcher efficiency trials would be conducted in each of 4 seasons for at least one year during the permit tenure and, for searcher efficiency trials, for each of the three carcass search methods (Scanning Surveys, Drone Surveys, and No Surveys) will be used.

Adaptive Management

PSE will be required to implement the adaptive management plan described in the EA. This plan, coupled with post-construction fatality monitoring, will help ensure that authorized take is not exceeded during the permit term. If observed take at the project reaches predetermined levels that would cause the Service to be concerned, an additional conservation measure will be implemented at the project with the goal of reducing take rates.

Reporting

Take Reports

PSE would report all eagle fatalities to our Central Washington Field Office, and to the Migratory Bird Permit Office via email, within 48 hours of discovery, whether observed during post-construction fatality monitoring or incidentally by Project personnel. Reports of eagle fatalities would be documented using a standardized form and include the date of discovery, the species and estimated age of the eagle, the location, the suspected cause and date/time of death or injury, and any other pertinent details (e.g., turbine location, wind conditions, etc.).

Annual Reports

PSE would submit written reports each year during the 5-year permit term. Reports will be submitted to us by January 31 of each year. A summary of some of the key components of each annual report is provided below.

- Observed incidents of eagle take and how each was discovered.
- Disposition of eagle remains (alive/dead), location, species, sex, age, and dates of each observed fatality.
- Maps or graphical representations illustrating the geographic distribution and location of all observed fatalities (relative to turbine locations).

EFFECTS AND FINDINGS

The three alternatives considered in the EA provide a reasonable range to assess differing potential environmental effects associated with issuance of an Eagle Permit. Alternative 1 does not achieve a net conservation benefit to eagles whereas the other alternatives do. Alternatives 2 and 3 have similar but slightly differing environmental effects. Both require fatality monitoring, adaptive management, and

compensatory mitigation that meet our population management objective. However, Alternative 2 is our Preferred Alternative because it describes the issuance of a 5-year permit, which is the tenure applied for by PSE. Alternative 3 would provide for additional mitigation that might compensate for take at the facility beyond what is required under current authorities. As such, a 30-year permit may provide the greatest potential value, certainty, and adaptive capacity of the three alternatives; however, the applicant has requested a 5-year permit at this time. We have determined that it would be more beneficial to eagles to permit the Project for five years, rather than have the applicant not agree to the terms of a 30-year permit.

Rigorous analyses of eagle population data and models allowed the Service to determine allowable take thresholds for both species (Final Programmatic Environmental Impact Statement (PEIS) for the Eagle Rule Revision). Using those national thresholds, we have determined that implementing the Preferred Alternative will not result in direct, indirect, or cumulative permitted take that exceeds the 1- and 5-percent thresholds of the Local Area Population (LAP, described in the EA and PEIS) for golden eagles. Further, we do not have evidence to suggest that unauthorized take is presently exceeding 10 percent of the LAP for golden eagles. For bald eagles, the Preferred Alternative will not result in direct or cumulative permitted take that exceeds the 5-percent thresholds of the LAP. In addition, we do not have evidence to suggest that unauthorized take is presently exceeding 10 percent of the LAP for bald eagles. Authorizing take at this facility is, therefore, compatible with the preservation of bald eagles and golden eagles.

Direct and indirect effects to other species of birds and bats are similar under all alternatives because the project is operational now and would continue so regardless of this permit decision. However, the intensity of mortality and injury impacts would likely be reduced under the Preferred Alternative due to the implementation of avoidance/minimization measures, monitoring, and mitigation for eagles. Adverse impacts to migratory birds and bats could be further reduced if conservation measures were implemented under the required adaptive management framework. Specifically, if adaptive management triggered the application of a monitoring and curtailment program for eagles, this action could also potentially reduce the potential for migratory bird and bat fatalities and injuries associated with collisions with turbine blades. Additionally, compensatory mitigation required under the Preferred Alternative to offset eagle take could benefit raptors and other birds with large wingspans by reducing the risk of electrocution elsewhere.

The Service must also find that, upon receipt of a complete application, the criteria in 50 CFR 13.21 "Issuance of Permits" are met, the issuance criteria are met and required determination are made in 50 CFR 22.26 (prior to 2016 revision). Based on the EA, the Service finds that the issuance of this permit under the Preferred Alternative meets all of the criteria required of 50 CFR 22.26 and 50 CFR 13.21.

<https://www.fws.gov/migratorybirds/pdf/management/FINAL-PEIS-Permits-to-Incidentally-Take-Eagles.pdf>

FINDINGS RELATED TO OTHER RESOURCES

The proposed action will not have significant impacts on public health or safety, natural resources and unique geographic, park, recreation or refuge lands, wilderness areas, wild or scenic rivers, national natural landmarks, sole or principal drinking water aquifers, prime farmlands, national monuments, migratory birds, and other ecologically significant or critical areas. No known historic places have been identified in the area where the activity will be taking place, nor is the offsite pole retrofits required for mitigation expected to have the potential to affect cultural resources, but the permittee will be required to prepare a cultural resources assessment of the final pole retrofits, and the Service will consult with the interested tribe and State Historic Preservation Officer at that time as appropriate. The proposed action will not significantly impact structures or properties, and does not conflict with proposed or adopted local,

regional, State, interstate, or Federal land use plans or policies, that may result in adverse environmental effects. The proposed action will not authorize the take of species listed or proposed under the Endangered Species Act. No designated Critical Habitat will be affected by the proposed action as it does not authorize a change in the habitat conditions for which such areas would be designated.

The proposed action is unlikely to result in cumulative effects given current knowledge. If future actions arise that might result in cumulative effects, they will be considered and taken into account for future eagle take permit analyses. Precedent already exists for permits of this nature, so this action does not represent a new precedent or decision in principle. The proposed action will not have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources.

PUBLIC SCOPING AND TRIBAL CONSULTATION

The Draft EA was made available to the public for a 30-day comment period, allowing the public opportunity to provide comments on the content and scope of the document. We received comments from 3 parties during this 30-day comment period, including Washington Department of Fish and Wildlife, the Confederated Tribes of the Colville Reservation, and PSE.

Additionally, twenty-five federally recognized Indian Tribes (Draft EA, Table 2, Page 16) could have special interests that may be affected in the area surrounding the Project based on their proximity to the Project and previous communication. Letters were sent to these Tribes on 18 January 2017, to inform them about the Eagle Permit application, and to provide them the opportunity to review the application and consult on the potential issuance of an Eagle Permit. We received no responses from the tribes requesting formal government-to-government consultation. Letters were also sent to these Tribes on 15 August 2019, to inform them of the public comment period for the draft EA. Responses to the comments received by the Confederated Tribes of the Colville Reservation can be found in Section 2.7 of the EA.

DETERMINATION

The Service has selected the Preferred Alternative as described in the EA and will issue a 5-year Eagle Incidental Take permit (50 CFR 22.26) for the incidental take of bald eagles and golden eagles associated with the operation of the Wild Horse Wind Facility. We have found the application submitted for the permit under 50 CFR 22.26, and the conditions negotiated with the applicant, meet the issuance criteria.

We considered impacts to eagles and other resources from the Project at the eagle management unit and local area scales in this EA, incorporating the PEIS by reference. The eagle take that we predict will occur at this facility is conservative, within allowable thresholds, and for golden eagles will be compensated by PSE through power pole retrofits that PSE will implement with Kittitas County PUD. Additionally, under this alternative, PSE would be required to perform fatality monitoring and implement adaptive management that would reduce eagle mortalities further if take rates appear to be higher than expected, and to continue operational measures that avoid and minimize eagle mortality. Because of this, and considering the population analysis in the PEIS for both species, we conclude that any direct, indirect, and cumulative effects of the action under the Preferred Alternative are not significant.

The Service determined that issuance of a permit under 50 CFR 22.26 for the take of 9 golden eagles and 3 bald eagles over the 5-year duration of the permit does not constitute a major Federal action significantly affecting the quality of the human environment under the meaning of section 102(2)(c) of the National Environmental Policy Act of 1969 (as amended). As such, an EIS is not required.

PUBLIC NOTICE


An electronic copy of this FONSI has been posted on the Service's website:

<https://www.fws.gov/pacific/migratorybirds/library/wpanalyses.html>. Notice was provided to the list of commenters for the Draft Wild Horse Wind Project Eagle Permit Environmental Assessment.

REFERENCES

Dwyer, J.F., R.E. Harness, K. Donohue. 2014. Predictive Model of Avian Electrocution Risk On Overhead Power Lines. Conservation Biology 28(1): 159-168.

USFWS 2019. Draft Wild Horse Wind Project Eagle Permit Environmental Assessment. U.S. Fish and Wildlife Service, Migratory Birds and Habitat Program, Portland, Oregon. https://www.fws.gov/pacific/migratorybirds/library/pdf/Wild_Horse_FINAL_Draft%20EA_081519.pdf.



Chief
Migratory Birds and Habitat Program

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Date